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Joseph Min H. Park

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EXAMINER

CARPENTER, WILLIAM R

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DELIVERY MODE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Korea on 25 April 2001. A certified copy of the parent application has been placed in the application file wrapper.

### ***Specification***

2. Claims 1-6, 9-13, and 15-21 are objected to because of the following informalities:

Applicant recites limitations drawn towards a "five-primary substance stone" comprising "hematite. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The originally filed specification fails to reference the "hematite". While Applicant alleges that the foreign priority document, incorporated by reference, does include reference to "hematite" such a reference must be provided in the specification of the instant US application as well. Furthermore, a complete translation of the foreign priority application is required in order to concretely establish support for the hematite.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-6, 9-13, and 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant recites limitations directed towards "hematite". However, recitation towards "hematite" could not be found in Applicant's detailed disclosure as originally filed. While Applicant alleges that such a recitation may be found in the foreign priority application, a complete and certified translation of the foreign priority document is required. See MPEP 2304.1(c).

5. Claims 1-6, 9-13, and 15-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims include recitations directed towards "A device for eliminating poisons and pollutants from the human body and for revitalizing cells". Applicant recites this device to comprise the active components of an "herb essence supplier" in combination with "vibrators", mats/covers which are "adjustable in temperature", and a "five-primary substance stone coating" comprising a mixture of powders of "10% to 20% by weight of hematite, about 10% to 20% by weight of mastodon bones, about 30% to 40% by weight of an elvan, about 10% to 20% by weight of mica, and about 10% to 20% by

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weight of a loadstone". However, Examiner submits that the written description supplied in the specification is not enabled so as to grant one having ordinary skill in the art the ability to make and use the disclosed invention to accomplish the claimed utility of "eliminating poisons and pollutants from the human body and for revitalizing cells".

There are many factors to be considered when determining whether there is sufficient evidence to support a determination that a disclosure does not satisfy the enablement requirement and whether any necessary experimentation is "undue". These factors include, but are not limited to:

- (A) The breadth of the claims;
- (B) The nature of the invention;
- (C) The state of the prior art;
- (F) The amount of direction provided by the inventor;
- (G) The existence of working examples; and
- (H) The quantity of experimentation needed to make or use the invention based on the content of the disclosure.

Examiner notes that the breadth of the claims is such that the recited "five-primary substance stone" is formed of a combination of materials including relative wide ranges of percentage by weight. Examiner notes that in some scenarios these ranges result in values that range as low as 70% of the total composition of this "five-primary substance stone" or as much as 120% of the total composition of this "five-primary substance stone". Examiner submits that one having ordinary skill in the art would not be enabled in forming a "five-primary substance stone" that is supposedly efficacious for

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"eliminating poisons and pollutants from the human body" when the disclosed constituent components encompass such large ranges. The art does not recognize each and every one of these particular materials (specifically mastodon bones) as being efficacious for such a utility and therefore one having ordinary skill in the art would be ill-equipped to devise an efficacious "five-primary substance stone" composed of these components in an efficacious ratio so as to total exactly 100% of the weight of the "five-primary substance stone".

Examiner notes that the nature of the invention and the state of the prior art is not such that mastodon bone is recognized for any ability to emit "remote infrared rays". Applicant does not attempt to assert any ability of the mastodon bones outside of the proposed combination, so therefore it is unclear whether the mastodon bone is essential to the composition or just arbitrarily selected filler. Given the wide weight percentage ranges purported by the claims it is not clear what the essential composition of mastodon bones must be in order to achieve efficacious results at the prescribed utility and as such one having ordinary skill in the art would not be able to make or use the invention to achieve the efficacious results of purging the body of toxins.

Examiner notes that Applicant has not provided sufficient direction to one having ordinary skill in the art to devise an efficacious "five-primary substance stone" composed of these components (i.e. hematite, mastodon bones, elvan, mica, and loadstone) in an efficacious ratio so as to total exactly 100% of the weight of the "five-primary substance stone" and allow for the emission of "remote infrared rays". It is not clear if each of the constituent components is capable of emitting efficacious "remote

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infrared rays” or if it is some precise combination of the five constituent components of the “five-primary substance stone” that allows for the emission of “remote infrared rays”. Therefore, one having ordinary skill in the art would not be enabled to make or use the instant invention.

Examiner emphatically notes that Applicant does not provide any working examples of the “five-primary substance stone” efficaciously emitting remote infrared radiation. There is no indication as to what wavelengths of infrared radiation are emitted, at what intensities the radiation is emitted, or at what density the electromagnetic radiation is emitted. Therefore, one having ordinary skill in the art would not be enabled to make or use the instant invention to remove toxins in a known and predictable manner. The art does not recognize that this combination, particularly in view of the somewhat nebulous composition, is capable of emitting “remote infrared rays”, let alone infrared rays in an efficacious manner to remove toxins.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 4, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer") in view of US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han").

Regarding Claims 1 and 11, Daffer discloses a device (10) for eliminating poisons and pollutants from the human body and for revitalizing cells. Daffer discloses the device to comprise an upper cover (28) being adjustable in temperature (46) and a lower mat (14), coupled to the upper cover and being adjustable in temperature (35) and forming vibrators (66A and 66B), wherein the upper cover and the lower mat define an interior space (16).

Daffer fails to explicitly disclose that the upper cover and the lower mat are provided with a "five-primary substance stone coating". In the instant case the phrase "five-primary substance stone" is held to define a type of stone that is formed from at least five substances in accordance with its broadest reasonable interpretation, the phrase not being inextricably linked to any specific composition of matter. However,

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Fujino discloses a system configured to delivery far infrared radiation to the human body in order to improve the health thereof. Fujino discloses that this invention comprises forming a coating of "five-primary substance stone", i.e. ordinary clay, kibushi clay, pulverized silica stone, one of aluminum oxide, zirconium oxide, or silicon oxide, and water (Col. 1, Ln. 59 – Col. 2, Ln. 7). Fujino discloses that this particular compound is particularly beneficial for radiating infrared electromagnetic waves for beneficial healing effects to the human body, activating the cells and warming the body from the inside (Col. 2, Ln. 8-22). It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the invention of Daffer with a five-primary substance stone coating, as disclosed by Fujino, in order to radiate beneficial infrared energy to the body, activating the cells and helping to warm the body to encourage sweating. It is noted that Daffer discloses delivering infrared energy (46) to the body to encourage heating of the body.

In the instant case neither Daffer nor Fujino disclose that the far five-primary substance coating should be formed of a combination of hematite, mastodon bones, elvan, mica, and loadstone.

However, Yao discloses that it is well known for compositions comprising mixtures include hematite to be used in far infrared radiation heating at ordinary temperatures to high temperatures as part of healthcare devices (see translated Abstract). It would have been obvious for one having ordinary skill in the art at the time the invention was made to include hematite as part of the "five-primary substance stone" of the modified invention of Daffer, as disclosed by Yao, in order to produce the

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efficacious results of far infrared heating and particularly for the ability of hematite to serve as an infrared opacifier.

Furthermore, Shimiz discloses that elvan is known to be a "natural mineral material which radiates infrared rays and has antibacterial properties" (Col. 1, Ln. 5-25). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to include elvan as part of the "five-primary substance stone" of the modified invention of Daffer, as disclosed by Shimiz, in order to produce the efficacious results of far infrared heating as well as for the antibacterial properties of the elvan.

Additionally, Jung discloses a similar invention for using far infrared radiation for its purported healing purposes. Jung discloses that the device should utilize mica for the padding/coating in order to help diffuse the infrared radiation (Col. 1, Ln. 61-63). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to include mica as part of the "five-primary substance stone" of the modified invention of Daffer, as disclosed by Jung, in order to produce the efficacious results of far infrared heating.

Furthermore, Ardizzone discloses a therapeutic device comprising bio-ceramic fibers. Ardizzone discloses that the device is configured to emit far infrared radiation (Col. 2, Ln. 36-41). Ardizzone discloses that the device may include magnets (i.e. loadstone/lodestone) to accompany the emission of infrared radiation (Abstract). It would have been obvious for one having ordinary skill in the art at the time the invention was made to include magnets/loadstone/lodestone to the "five-primary substance

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stone" of the modified invention of Daffer, as disclosed by Ardizzzone, in order to produce the efficacious results of far infrared heating along with magnetotherapy.

Finally, none of the cited references explicitly disclose the use of mastodon bones as part of a "five primary substance stone". However, Docter discloses a therapeutic mat (10) that includes a crystal composition which is intended to be used for holistic treating or bodily wounds, injuries, skin aging disorders, and diseases (Col. 1, Ln. 5-10). Docter discloses that the crystal composition may comprise turquoise (col. 2, Ln. 63 - Col. 3, Ln. 7). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize ground turquoise crystals within the five primary substance stone of the modified invention of Daffer, as disclosed by Docter, in order to use the crystal for a holistic approach in treating the body diseases. One well-known source of turquoise crystals is the heat induced transformation of fossil ivory into turquoise 'odontolite' as is disclosed by Reiche (Introduction). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to use mastodon bones to form the turquoise of the modified invention of Daffer, as disclosed by Reich, thereby only achieving the expected results of using one well-known source of turquoise.

In the instant case the above references clearly establish the minerals of hematite, mastodon bones, elvan, mica, and lodestone to be result effective variables for the purpose of composing a five primary substance stone for the purpose of holistic healing of the human body. As such, the percent composition of these substances within the five primary stone substance is held to been established as a result effective

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variable. It would have been obvious for one having ordinary skill in the art at the time the invention was made to form a five primary substance stone of the device of Daffer to comprise 10-20% hermatite, 10-20% mastodon bones, 30-40% elvan, 10-20% mica, and 10-20% lodestone, since it has been held that discovering the optimal or workable range of a result effective variable requires only routine and customary skill in the art.

In the instant case, Daffer only discloses that infrared energy should be delivered from the upper cover (Fig. 28), not the lower mat. However, it is noted that Fujino discloses the infrared radiating material to be part of a bedding, i.e. a lower mat. As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the device of Daffer with an infrared radiating coating, as disclosed by Fujino, in order to ensure that the body was adequately exposed to infrared energy.

However, should Examiner's arguments not be found persuasive the following is presented. Park discloses an invention similar to that disclosed by Daffer configured to eliminate poisons and pollutants from the body by encouraging sweating (Abstract). Park discloses the device to comprise an upper cover (16) and a lower mat (54). Park discloses both the upper cover and the lower mat to be provided with infrared generating means (74) for generating far infrared radiation in order to heat and activate the user's body. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the invention of Daffer with an infrared radiation generating means, as disclosed by Park, having a infrared radiating

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coating, as disclosed by Fujino, in order to ensure that the user's body is adequately exposed to beneficial infrared radiation.

While Daffer does disclose that the device should be configured to circulate air via a fan/pump (61), Daffer fails to disclose that this air is provided with an herb essence. However, Wege demonstrates that it is well known to utilize herbs to generate moist medicinal air in conjunction with steam baths/saunas (Col. 3, Ln. 44-64). Wege provides the device with an herb essence supplier (4) connected to the interior space formed between an upper cover (2) and lower mat (1), the herb essence supplier having a discharge outlet (38 and 36) connected to the interior space in order to deliver the herb essence. However, Wege fails to disclose that the herb essence supplier comprises an air pump. However, Han discloses an herb essence supplier (10) configured to deliver medical herbal air to a patient (Abstract). Han discloses the herb essence supplier to comprise a discharge outlet (58) to deliver the herbal air to the skin (Fig. 1) and an air pump (18) to supply air to the herbal essence supplier (Fig. 1). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize an herbal essence supplier operatively connected to an air pump, as disclosed by Han, in order to deliver medical herbal air to the interior chamber of Daffer, as disclosed by Wege, in order to help cleanse and detoxify a patient.

Regarding Claim 4, Han discloses the herb essence supplier to comprise a combustion type herb essence supplier for burning the herb (51) contained therein to supply the perfume therefrom (Abstract).

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9. Claims 2, 4, 6, 15, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han") as applied to Claims 1 or 11 above, and further in view of US Patent No. 5,632,768 ("Shimada").

Regarding Claims 2, 4, 6, 15, 17, and 19, Daffer, as modified, discloses the invention substantially as claimed except that herb essence supplier utilizes electrical resistive wiring to evaporate/combust the herb essence. However, Shimada discloses a system (10) configured to supply herb essence (Abstract). Shimada discloses that the device may be provided with an electrical resistive heating wire in order to evaporate the herbal essences (Col. 5, Ln. 60 – Col. 6, Ln.3). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize an electrical resistive heating wire to evaporate the herbal essence of the modified invention of Daffer, as disclosed by Shimada, thereby only achieving the expected results of utilizing one well-known means of release herbal essences within an air supply.

10. Claims 3 and 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No.

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6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han") as applied to Claims 1 or 11 above, and further in view of Japanese Patent No. H-06-181878 ("Sakurai").

Regarding Claims 3 and 16, Daffer, as modified, discloses the invention substantially as claimed except that herb essence supplier utilizes vibration to release the herb essence. However, Sakurai discloses that it is well known to release the essential oils and aromatic compounds of a substance by atomizing it with ultrasonic vibrations (Par. 4). It would have been obvious for one having ordinary skill in the art at the time the invention was made to utilize vibrational forces to release the herbal essences of the modified invention of Daffer, as disclosed by Sakurai, thereby only achieving the expected results of utilizing one well-known means of release herbal essences within an air supply.

11. Claims 5 and 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733

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("Han") as applied to Claims 1 or 11 above, and further in view of US Patent No. 4,203,438 ("Shiu").

Regarding Claims 5 and 18, Daffer, as modified, discloses the invention substantially as claimed except that the invention comprises a plurality of herb essence suppliers provided in parallel. However, Shiu discloses an apparatus comprising a plurality of herb essence suppliers provided in parallel in order to deliver herb essence to a patient's skin (Abstract; Fig. 6). It would have been obvious for one having ordinary skill in the art at the time the invention was made to modify the invention of Daffer to comprise a plurality of herb essence suppliers provided in parallel, as disclosed by Shiu, in order to provide a sufficient quantity of herb essence to the patient's tissue. It has been held that pluralizing the essential working parts of an invention requires only routine and customary skill in the art.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han") as applied to Claim 1 above, and further in view of US Patent No. 4,747,841 ("Kuratomi").

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Regarding Claim 9, Daffer, as modified, discloses the invention substantially as claimed except that invention further comprises an attachment device connected to the discharge outlet of an herb essence supplier, the attachment device having a five-primary substance stone coating on at least a bottom surface thereof. However, Kuratomi discloses an herb essence supplier (3) comprising an attachment device configured to contact a users body (7). Kuratomi discloses that the herb essence supplier is configured to radiate infrared energy to the user's tissue (Col. 3, Ln. 29-31). While Kuratomi fails to explicitly disclose that the attachment device is provided with a five-primary substance stone coating, as discussed above, Fujino discloses a five-primary stone coating configured to radiate infrared energy (Col. 2, Ln. 8-22). As such, it would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the attachment device of the invention of Kuratomi with a five primary substance stone coating, as disclosed by Fujino, in order to better radiate infrared energy to a patient's tissue. It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the herbal essence suppliers of the invention of Daffer with an attachment device comprising a five-primary stone coating, as disclosed by Kuratomi in view of Fujino, in order to deliver targeted infrared energy to various localized tissue areas.

13. Claims 10 and 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946

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("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han") as applied to Claim 1 above, and further in view of US Patent No. 6,013,021 ("Lee").

Regarding Claims 10 and 20, Daffer, as modified, discloses the invention substantially as claimed except that air pump provides negatively ionized air. However, Lee discloses using an air pump to deliver negatively ionized air to a user's tissue in order to revitalize their cells (Abstract; Col. 2, Ln. 63 - Col. 3, Ln. 21). It would have been obvious for one having ordinary skill in the art at the time the invention was made to configure the pump of the modified invention of Daffer to deliver negatively ionized air, as disclosed by Lee, in order obtain the beneficial effects of such an air source, revitalizing a user's cell tissue.

14. Claims 12, 13, and 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,497,717 ("Daffer"), US Patent No. 4,680,822 ("Fujino"), Chinese Patent Application No. 1114329 A ("Yao"), US Patent No. 5,880,044 ("Shimiz"), US Patent No. 6,108,581 ("Jung"), US Patent No. 6,666,813 ("Ardizzone"), US Patent No. 6,143,946 ("Docter"), *Heat induced transformation of fossil mastodon ivory into turquoise 'odontolite'. Structural and elemental characteristics* ("Reiche"), US Patent No. 6,272,697 ("Park"), US Patent No. 5,425,753 ("Wege"), and US Patent No. 3,946,733 ("Han") as applied to Claim 1 above, and further in view of CH Patent No. 683822 ("Zofingen").

Regarding Claims 12 and 21, Daffer as modified discloses the invention substantially as claimed except that lower mat further includes a plurality of protrusion for stimulating acupuncture points of the body. However, Zofigen discloses a bed cover/mat (8) that includes a plurality of protrusions (1) configured to stimulate the acupuncture points of the body by non-penetrating contact (see translation). It would have been obvious for one having ordinary skill in the art at the time the invention was made to provide the lower mat of the device of Daffer with acupuncture stimulating protrusions, as disclosed by Zofigen to provide a holistic approach to disease treatment.

Regarding Claim 13, as the lower mat of the device of Daffer is formed of the five primary substance stone, it would have been obvious for one having ordinary skill in the art at the time the invention was made to form the protrusions of the lower mat to be integral with the mat, and therefore formed of the same five-primary substance stone. It has been held that forming a device as a series of integral components requires only routine and customary skill in the art.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM CARPENTER whose telephone number is (571)270-3637. The examiner can normally be reached on Monday through Thursday from 7:00AM-4:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Carpenter/

Examiner, Art Unit 3767

06/23/2010

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767